



P.O. BOX 23223 Oakland, CA 94623
Phone (510) 419-0120 / Fax (510) 832-1456

LETTER OF TRANSMITTAL
SAS Foundations E2/T1 Project

Run Date 30-Jan-08
Time 11:34 AM

Dated: 1-30-08

TRANSMITTAL No: KFM-TRN-000699

Rev: 00

To: **Pedro Sanchez**
Caltrans - SAS E2/T1 Foundation Project
333 Burma Road
Oakland CA 94607
Phone: 510-286-0538 Fax:

Co/Job # 364-4347
Contract # 04-0120E4
Sub/Supplier:
Sub/Supplier No:

Subject: NOPC 16-011708 Supplemental NOPC

Special Provis. (SP) REF:
Standard Spec. (SS) REF:
RESUBMITTAL/SUPPLEMENTAL REF:

We are sending the following attached items: ☒ Attached

☐ Via Fax

- | | | |
|--|--|---|
| <input type="checkbox"/> Contract Plans/Specs | <input type="checkbox"/> Certs of Compl./Samples | <input type="checkbox"/> Working Drawings |
| <input type="checkbox"/> Drawings/Calculations | <input type="checkbox"/> Schedule | <input type="checkbox"/> WQCP and/or Addenda |
| <input type="checkbox"/> Change Order | <input type="checkbox"/> Progress Estimate Request | <input type="checkbox"/> Weekly Welding Reports |
| <input checked="" type="checkbox"/> Copy of Letter | <input type="checkbox"/> Payroll Information | <input type="checkbox"/> CWR Procedure |

Item	Date	Copies	Description	Pages
01	30-Jan-2008	1	NOPC 16-011708 Form CEM 6201B	

These are transmitted as checked below:

- | | | |
|--|---|--|
| <input type="checkbox"/> For Approval | <input type="checkbox"/> For Review/Comment | <input type="checkbox"/> Return For Correction |
| <input checked="" type="checkbox"/> For Your Use | <input type="checkbox"/> As Requested | <input type="checkbox"/> For Information |

Remarks:

CC:

Submitted By:

George Atkinson

(KFM Staff Member - Originator of Transmittal)

Checked & Sent By:

Contract Admin/DCS Staff

STATE OF CALIFORNIA • DEPARTMENT OF TRANSPORTATION
SUPPLEMENTAL NOTICE OF POTENTIAL CLAIM
CEM-6201B (NEW 9/2002)

FOR STATE USE ONLY

Received By

DATE

(For resident engineer)

TO Pedro Sanchez (resident engineer)	CONTRACT NUMBER 04-0120E4	DATE January 30, 2008	IDENTIFICATION NUMBER 16-011708
--	------------------------------	--------------------------	------------------------------------

This is a Supplemental Notice of Potential Claim for additional compensation submitted as required under the provisions of Section 9-1.04, "Notice of Potential Claim," of the Standard Specifications. The act of the engineer, or his/her failure to act, or the event, thing, occurrence, or other cause giving rise to the potential claim occurred on: DATE

January 17, 2008

The particular nature and circumstances of this potential claim are described in detail as follows

See attached "NOPC 16-011708 -- Supplemental Notice of Potential Claim"

(attach additional sheets as needed)

The basis of this potential claim including all relevant contract provisions are listed as follows:

See attached "NOPC 16-011708 -- Supplemental Notice of Potential Claim"

(attach additional sheets as needed)

The estimated dollar cost of the potential claim including a description of how the estimate was derived and an itemized breakdown of individual costs are attached hereto.

See attached "NOPC 16-011708 -- Supplemental Notice of Potential Claim"

(attach sheets as required)

A time impact analysis of the disputed disruption has been performed and is attached hereto. The affect on the scheduled project completion date is as follows:

See attached "NOPC 16-011708 -- Supplemental Notice of Potential Claim"

The undersigned originator (Contractor or Subcontractor as appropriate) certifies that the above statements and attached documents are made in full cognizance of the California False Claims Act, Government Code sections 12650-12655. The undersigned further understands and agrees that this potential claim to be further considered, unless resolved, must fully conform to the requirements in Section 9-1.04 of the Standard Specifications and must be restated as a claim in the Contractors written statement of claims in conformance with Section 9-1.07B of the Standard Specifications.

Kiewit / FCI / Manson ASV

SUBCONTRACTOR or CONTRACTOR
(Circle One)

[Signature]

(Authorized Representative)

For a subcontractor potential claim

This notice of potential claim is acknowledged, certified and forwarded by

PRIME CONTRACTOR

(Authorized Representative)

ADA Notice

For individuals with sensory disabilities, this document is available in alternate formats. For information call (916) 654-6410 or TDD (916) 654-3880 or write Records and Forms Management, 1120 N Street, MS-89, Sacramento, CA 95814.

NOPC 16-011708 -- Supplemental Notice of Potential Claim

Nature and Circumstances of Potential Claim

Kiewit/FCI/Manson AJV ("KFM") proposed a nine day non-compensable break in work activity from December 24, 2007 through January 1, 2008 by its letter KFM letter #350 dated December 6, 2007. As further proposed in KFM's letter, the calculated contract completion date would become April 9, 2008.

The State accepted, with certain conditions, KFM's proposal by its Letter 3735, dated December 14, 2007. The State added "that the contractor, subcontractors, and suppliers cease all field work, and that there are no additional costs to the Department, or additional Time Related Overhead days, as a result of this work stoppage". KFM, its subcontractors, and suppliers did not perform field work during the proposed break period.

It was KFM's intent that there would be no additional charges to the State as a result of this work stoppage. Also, KFM's opportunity to complete the work early and achieve the maximum early completion incentive payment would remain unchanged. Therefore, as discussed under "Estimated Cost of Potential Claim" and "Time Impact Analysis", KFM will not request additional compensation or Time Related Overhead under this Notice of Potential Claim.

The State reflected the agreed nine-day break in its Weekly Statement of Working Days (WSWD) # 165 and 166 by indicating the break-days under "Time Adjustments – Other" and by noting them as non-compensable for Time Related Overhead (TRO). However, the indicated "Extended Date for Completion" remained at March 31, 2008.

KFM protested WSWDs # 165 and 166 by KFM letter #359. KFM noted that due to modifications to Standard Specification 8-1.06 "Time of Completion" via Special Provision Section 4 – "Beginning of Work, Time of Completion, and Liquidated Damages" that portions of the contract that provide for working days calculations and the WSWD no longer applied. And, in fact, the proposed WSWD accounting for these non-compensable days created an inconsistency between the indicated "Working Days Remaining" (Line 11) and the actual number of work (calendar) days between the last day of the reporting period and the "Extended Date for Completion" (Line 8).

Special Provision Section 4 – "Beginning of Work, Time of Completion, and Liquidated Damages" identifies the calculation method for determining the Contractor's early completion incentive payment. This section was modified by Contract Change Order No. 29 ("CCO 29") and as agreed by KFM and the State will be revised again by Contract Change Order No. 56 ("CCO 56"). Revised language in CCO 56 states,

"For every working day that the Contract is accepted prior to March 31, 2008, the Contractor will receive an incentive payment of \$64,102.56. The total incentive payment will not exceed \$5,000,000."

Without further adjustment to the March 31, 2008 contract completion date any incentive payment for which KFM would qualify would be reduced by the subject nine days. KFM believes this is inconsistent with the intent of the agreed nine-day holiday work stoppage.

KFM requests the State issue a Contract Change Order to adjust the contract completion date from March 31, 2008 to April 9, 2008 to enable payment of the full early completion incentive payment without

impact from the nine-day work stoppage. WSWD #165, and subsequent WSWD reports, shall be re-issued as appropriate.

Contract Basis for Potential Claim

Imminent completion of all contract work by KFM and Contract Acceptance by the Department without an approved Contract Change Order extending the contract time of performance gave rise to this NOPC.

The use of the WSWD calculations as a means to reflect a non-compensable time extension under “Time Adjustments-Other” is inconsistent with the contract. Under Special Provision Section 4 – “Beginning of Work, Time of Completion, and Liquidated Damages” the Standard Specification provisions which relate to determination of working days and to WSWD procedures do not apply. To quote:

“A working day as defined in said Section 8-1.06 is re-defined for this project. Paragraph two through paragraph five, inclusive, of said Section 8-1.06 shall not apply.”

The referenced “paragraphs two through five” of Standard Specification 8-1.06 – “Time of Completion” provide for determination of working days and their accounting by the Engineer through the WSWD report. Under normal circumstances this process would determine a contract completion date and would track days for which Time Related Overhead would be chargeable.

As the contract provisions related to contract working days and contract completion date are not applicable per Special Provisions Section 4, they can not be used to reflect the agreed to nine-day work stoppage.

Standard Provision 4-1.03 “Changes”, in conjunction with Standard Provision 8-1.07 “Liquidated Damages”, provides for an adjustment of contract time of performance by contract change order. These provisions provide an appropriate basis for a change order reflecting the intent of the parties.

Amended Standard Specification 9-1.07B, “Final Payment and Claims”, fifth paragraph, notes that claims made in response to the Proposed Final Estimate following Contract Acceptance will not be considered if the Contractor did not first comply with applicable notice or protest requirements of the contract including 9-1.04 “Notice of Potential Claim”.

Since the requested CCO reflecting the agreed nine-day work stoppage was not approved as of January 14, 2008, and could not be reasonably anticipated to be approved and effective by KFM’s anticipated completion date of January 18, 2008, KFM has made a Notice of Potential Claim to allow for claims associated with this work in accordance with Amended Standard Specification 9-1.07B, “Final Payment and Claims”.

Estimated Cost of Potential Claim

KFM has proposed that the non-compensable nine-day work stoppage be allowed. There are no direct or other associated time-related impacts to the State for the nine days not worked. The total Time Related Overhead payable under Bid Item No. 6 is to remain unchanged.

Time Impact Analysis

KFM has prepared the attached Time Impact Analysis No. 4 (“TIA 4”) to reflect the schedule disruption created by the agreed nine-day work stoppage. The new calculated contract completion date is April 9, 2008.

Act ID	Activity Description	Orig Dur	Rem Dur	Total Float	Early Start	Early Finish	2008											
							OCT 22 29 5	NOV 12 19 26 3	DEC 10 17 24 31 7	JAN 14 21 28 4	FEB 11 18 25 3	MAR 10 17 24 31 7	APR 14					
No Specific Location/Project-Wide																		
NMSCA55	TRO Days (Post-Termination)		817	103	0	04JAN06A	31MAR08											
NMSCA20	Added Days (CCO#29)		310	103	0	27MAY07A	31MAR08											
NMSCA75	Holiday Shutdown (KFM SL350_CT SL3735) [NOPC 16]		0	0	0	24DEC07	23DEC07											
NMSCA85	KFM Early Completion		78	78	-1	15JAN08	01APR08											
NSUCA85	Final Schedule Update		15	15	62	15JAN08	29JAN08											
NMSCA88	Non - TRO Days (Post-Termination) [NOPC No. 16]		0	0	0	01APR08	31MAR08											
Pier T1 Tower Foundation																		
TTCCA16	T1 FTG: CCO 41 Fndng - Procure Remaining Matl	21	2	0	01DEC07A	21DEC07												
TTIC32	T1 Fig Interior: Pour & Cure Concrete South-IIS	7	1	0	13DEC07A	20DEC07												
TTIC36	T1 Fig Interior: Pour & Cure Concrete North-IIN	7	1	0	13DEC07A	20DEC07												
TSUFB34	T1 FTG As-Instld WD's: Pln/Prp/Sbmt-Finish[1718]	5	1	-1	14DEC07A	20DEC07												
TTCTS46	T1 Fig Tower Skirt Anchor Bolts-Finish	4	1	0	15DEC07A	20DEC07												
TTCTS71	T1 Fig Top Slab - Finish Formwork	4	1	1	17DEC07A	20DEC07												
TTCTS69	T1 Fig Top Slab - Install Rebar, Finish	3	1	0	18DEC07A	20DEC07												
TTCTS53	T1 Footing Grounding: Install Both Tails	2	2	0	20DEC07	21DEC07												
TRVFB30	T1 Footing As-Installed WD's: Review & Approve	25	25	-1	21DEC07	14JAN08												
TTCCA22	T1 FTG: CCO 41 Fndng - Prefabricate Rmng Fntrs	2	2	0	22DEC07	23DEC07												
TTCTS72	T1 Fig Top Slab Pour & Begin Cure Concrete	2	2	0	22DEC07	23DEC07												
TTCTS74	T1 Fig Top Slab Finish Cure Concrete	6	6	5	24DEC07	29DEC07												
TTCCA26	T1 FTG: CCO 41 Fndng - Finish Installation	5	5	9	24DEC07	28DEC07												
TTCEL15	Navigation Lighting System: Install T1 ATON	3	3	5	30DEC07	01JAN08												
TTCTS95	T1 Fig Tower Skirt Curbing: Form	4	4	0	24DEC07	27DEC07												
TTCTS97	T1 Fig Tower Skirt Curbing: Pour-Cure-Strip Conc	10	10	0	28DEC07	06JAN08												
TPNPN10	T1 Footing Final Punchlist Items	7	7	0	07JAN08	13JAN08												
Pier E2 Foundation and Pier																		
EEWFW62	E2 Remove Footing Falsework Deck-Begin	4	1	0	17DEC07A	20DEC07												
EWPPR75	E2 WB Complete Pier Dry Finish-Begin	6	4	0	18DEC07A	23DEC07												
EFCEL15	Navigation Lighting System: Install E2 ATON	4	4	11	20DEC07	23DEC07												
EFCEMM30	Install E2 Fender Ladders	7	7	11	20DEC07	26DEC07												
EEWFW64	E2 Remove Footing Falsework Deck-Continue	3	3	0	21DEC07	23DEC07												
EEWFW66	E2 Remove Footing Falsework Deck-Finish	6	6	15	24DEC07	29DEC07												
EWPPR77	E2 WB Complete Pier Dry Finish-Conclude	7	7	0	24DEC07	30DEC07												
EEPFR80	E2 EB Pier: Relocate Ring Scaffolding	1	1	0	31DEC07	31DEC07												
EEPFR82	E2 EB Pier: Complete Dry Finish-Final	6	6	0	01JAN08	06JAN08												
EPNPN10	E2 Final Punchlist Items	7	7	0	07JAN08	13JAN08												

Print Date = 30JAN08 09:10

Data Date = 20DEC07

© Primavera Systems, Inc.

Layout = AA- TIA No. 4 Before
Filter = Remaining Activities w/RD > 0

E7L0

KFM, JV: E2T1 - SAS Foundations
E7L0 - 07DEC Monthly Update/Revision

Sheet 1 of 1

Act ID	Activity Description	Orig Dur	Rem Dur	Total Float	Early Start	Early Finish	2008																										
							OCT	NOV	DEC	JAN	FEB	MAR	APR																				
No Specific Location/Project-Wide							22	29	5	12	19	26	3	10	17	24	31	7	14	21	28	4	11	18	25	3	10	17	24	31	7	14	
NMSCA55	TRO Days (Post-Termination)		817	103	-9	04JAN06A	31MAR08																										
NMSCA20	Added Days (CCO#29)		310	103	-9	27MAY07A	31MAR08																										
NMSCA75	Holiday Shutdown (KFM SL350_CT SL3735) [NOPC 16]		9	9	-9	24DEC07	01JAN08																										
NMSCA85	KFM Early Completion		78	78	-9	23JAN08	09APR08																										
NSUCA85	Final Schedule Update		15	15	54	23JAN08	06FEB08																										
NMSCA88	Non - TRO Days (Post-Termination) [NOPC No. 16]		9	9	-9	01APR08	09APR08																										
Pier T1 Tower Foundation																																	
TTCCA16	T1 FTG: CCO 41 Fndrng - Procure Remaining Matl		21	2	-9	01DEC07A	21DEC07																										
TTIC32	T1 Ftg Interior: Pour & Cure Concrete South-IIS		7	1	-9	13DEC07A	20DEC07																										
TTIC36	T1 Ftg Interior: Pour & Cure Concrete North-IIN		7	1	-9	13DEC07A	20DEC07																										
TSUFB34	T1 FTG As-Instld WD's: Pln/Prp/Sbmt-Finish[1718]		5	1	-1	14DEC07A	20DEC07																										
TTCTS46	T1 Ftg Tower Skirt Anchor Bolts-Finish		4	1	-9	15DEC07A	20DEC07																										
TTCTS71	T1 Ftg Top Slab - Finish Formwork		4	1	-8	17DEC07A	20DEC07																										
TTCTS69	T1 Ftg Top Slab - Install Rebar, Finish		3	1	-9	18DEC07A	20DEC07																										
TTCTS53	T1 Footing Grounding: Install Both Tails		2	2	-9	20DEC07	21DEC07																										
TRVFB30	T1 Footing As-Installed WD's: Review & Approve		25	25	-1	21DEC07	14JAN08																										
TTCCA22	T1 FTG: CCO 41 Fndrng - Prefabricate Rmng Fndrs		2	2	-9	22DEC07	23DEC07																										
TTCTS72	T1 Ftg Top Slab Pour & Begin Cure Concrete		2	2	-9	22DEC07	23DEC07																										
TTCTS74	T1 Ftg Top Slab Finish Cure Concrete		6	6	5	24DEC07	29DEC07																										
TTCCA26	T1 FTG: CCO 41 Fndrng - Finish Installation		5	5	0	02JAN08	06JAN08																										
TTCEL15	Navigation Lighting System: Install T1 ATON		3	3	2	02JAN08	04JAN08																										
TTCTS95	T1 Ftg Tower Skirt Curbing: Form		4	4	-9	02JAN08	05JAN08																										
TTCTS97	T1 Ftg Tower Skirt Curbing: Pour-Cure-Strip Conc		10	10	-9	06JAN08	15JAN08																										
TPNPN10	T1 Footing Final Punchlist Items		7	7	-9	16JAN08	22JAN08																										
Pier E2 Foundation and Pier																																	
EEWFW62	E2 Remove Footing Falsework Deck-Begin		4	1	-9	17DEC07A	20DEC07																										
EWPPR75	E2 WB Complete Pier Dry Finish-Begin		6	4	-9	18DEC07A	23DEC07																										
EFCEL15	Navigation Lighting System: Install E2 ATON		4	4	11	20DEC07	23DEC07																										
EFCMM30	Install E2 Fender Ladders		7	7	11	20DEC07	26DEC07																										
EEWFW64	E2 Remove Footing Falsework Deck-Continue		3	3	-9	21DEC07	23DEC07																										
EEWFW66	E2 Remove Footing Falsework Deck-Finish		6	6	6	02JAN08	07JAN08																										
EWPPR77	E2 WB Complete Pier Dry Finish-Conclude		7	7	-9	02JAN08	08JAN08																										
EEPPR80	E2 EB Pier: Relocate Ring Scaffolding		1	1	-9	09JAN08	09JAN08																										
EEPPR82	E2 EB Pier: Complete Dry Finish-Final		6	6	-9	10JAN08	15JAN08																										
EPNPN10	E2 Final Punchlist Items		7	7	-9	16JAN08	22JAN08																										

Print Date = 30JAN08 09:09

Data Date = 20DEC07

Layout = AA- T1A No. 4 After

Filter = Remaining Activities w/RD > 0

E7L0

KFM, JV: E2T1 - SAS Foundations
E7L0 - 07DEC Monthly Update/Revision

Sheet 1 of 1